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Nate F. Scarpelli
MARSHALL, GERSTEIN & BORUN
233 South Wacker Drive
6300 Sears Tower
Chicago, IL 60606-6402

In re Application of :
BÄR, Kai K.O. *et al* :
U.S. Application No.: 09/937,995 :
PCT No.: PCT/EP00/02773 :
Int. Filing Date: 29 March 2000 :
Priority Date: 01 April 1999 :
Attorney's Docket No.: 27428/37727 :
For: INFRARED IRRADIATION :

DECISION

This decision is in response to the papers filed 13 January 2003 which have been treated as a petition under 37 CFR 1.8(b). No fee is required.

BACKGROUND

On 02 December 2002, a decision dismissing applicants' petition under 37 CFR 1.181 was mailed because applicants did not provide *prima facie* evidence that the declaration and surcharge fee were mailed 20 December 2001.

On 13 January 2003, applicants submitted the instant renewed petition which was accompanied by, *inter alia*, Exhibits A - D.

DISCUSSION

The petition filed 29 August 2002 was dismissed pursuant to 37 CFR 1.181 in a decision dated 02 December 2002. Applicants failed to provide *prima facie* evidence in the form of a date-stamped postcard receipt that the declaration and surcharge fee were originally submitted on 20 December 2001.

In the present renewed petition, applicants request withdrawal of the notice of abandonment based on 37 CFR 1.8(b).

37 CFR 1.8(b) states, in part:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned . . . the correspondence will be considered timely if the party who

forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. . . .

In the renewed petition, applicants have met all of the requirements listed above for a grantable petition. Applicants have provided the requisite statement, and a copy of the documents purportedly filed 20 December 2001. (A copy of those documents were also filed with the original petition.) The "Statement Pursuant to 37 C.F.R. §1.8(b)(3)" with accompanying documentary evidence including a computerized and written copy of the docket record for 20 December 2001 is sufficient to meet the requirements of 37 CFR 1.8(b)(3).

CONCLUSION

For the reasons above, applicants' petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notification of Abandonment mailed 28 August 2002 is hereby **VACATED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 29 March 2000, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 20 December 2001.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.


James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457